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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

FILE:

BAL 01 049 50014

Office: BALTIMORE DISTRICT OFFICE

Date: JUL 19 2004

IN RE:

Petitioner:

Beneficiary:

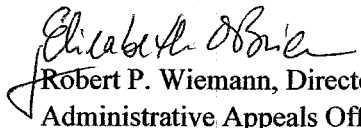
Application: Petition to Classify Orphan as an Immediate Relative Pursuant to Section 101(b)(1)(F) of the Immigration and Nationality Act, 8 U.S.C. § 1101(b)(1)(F)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The District Director, Baltimore, Maryland District Office, denied the preference visa petition. The petitioner appealed the director's decision to the Administrative Appeals Office (AAO). The AAO dismissed the appeal. The matter is now before the Administrative Appeals Office (AAO) on motion to reopen/reconsider. The motion will be dismissed as untimely filed.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the motion within 30 days of the decision that the motion seeks to reopen/reconsider. If the decision was mailed, three days are added to the prescribed period. Service by mail is complete upon mailing. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued its decision on April 2, 2003. It is noted that the director gave notice to the petitioner that any motion to reopen/reconsider must be filed within 30 days of the decision that the motion seeks to reconsider/reopen. The motion to reopen/reconsider was received by Citizenship and Immigration Services (CIS) on May 22, 2003, or 50 days after the decision was issued. Accordingly, the motion was untimely filed.

On motion, the petitioner asserts that he did not receive AAO's decision until April 30, 2003 and that the AAO decision was postmarked April 24, 2003. Inasmuch as the petitioner failed to submit evidence to support the assertion that the AAO decision was postmarked April 24, 2003, the motion must be dismissed as untimely filed.

**ORDER:** The motion is dismissed.